
LAYOFF

APPLICATION: Full-time classified employees and restricted and part-time classified employees as indicated.

PURPOSE

Permits agencies to implement reductions in the workforce according to uniform criteria when it becomes necessary to reduce the number of employees or to reconfigure the work force including change of positions from full-time to part-time status. The decision to implement layoff must not be made on the basis of an employee's race, color, religion, gender, age, national origin, disability, or political affiliation. This policy should be used with Policy 1.57, Severance Benefits.

DEFINITIONS

Abolishing positions

Discontinuing a position due to agency needs based on funding or organizational changes. Classified employees in positions identified for abolishment will be considered for placement and layoff benefits according to the provisions of this policy.

Catalog of Federal Domestic Assistance

Defines project grants to include fellowships, scholarships, research grants, trainee grants, traineeships, experimental and demonstration grants, evaluation grants, survey grants, construction grants, and unsolicited contractual agreements. (Available at www.cfda.gov.)

Classified Positions

A category of full or part-time state positions that are covered by the Virginia Personnel Act.

Compensable Factors

A component of the Career Group Description that is used to allocate a position to a Role in a Career Group based on the Complexity of Work, Results and Accountability.

Demotion in Lieu of Layoff

Placement into a different position in a lower Pay Band in the same agency as part of a reduction in force or reorganization.

Employees Eligible for Benefits (Eligible Employees)

All full-time classified employees. Full-time and part-time restricted employees and part-time classified employees are eligible for layoff benefits only if (a) the position held immediately prior to the position being discontinued was a full-time non-restricted classified position, and (b) there was no break in service between the full-time non-restricted classified position and the restricted or part-time position.

Former Position

Position held by the employee just prior to being placed on leave without pay-layoff or being placed into another position through the layoff process.

**Interagency
Placement Screening
Form**

“Yellow Form” provided to employees when they are notified that they will be affected by layoff (see Attachment A). This form is to be used by these employees to secure preferential consideration over applicants from outside an agency for positions for which they are *minimally qualified* in the same or lower Pay Band. The Interagency Placement Screening Form is valid from the date of issue until the employee’s layoff effective date.

Layoff Benefits

Placement options:

- within the employee’s agency;
- preferential employment consideration prior to layoff in other agencies (Interagency Placement Screening Form);
- recall;
- preferential hiring in other agencies during leave without pay-layoff, “Blue Card;”
- Re-Op Pool.

**Layoff Notice – Initial
and Final**

Written notification to an employee at least two weeks before the date of layoff or placement. Agencies are encouraged to provide as much notice as feasible to employees to be affected by layoff. The final notice must be given to employees on the L-1 form (see Attachment B) immediately prior to the effective date of the layoff.

**Leave Without Pay –
Layoff (Involuntary
Separation)**

Leave status of (1) a classified employee who (a) was involuntarily separated from his or her position because the position was abolished or full-time status changed; and (b) is eligible for certain benefits as outlined in this policy; or (2) a restricted employee who does not have access to Layoff benefits but who is eligible for benefits under Policy 1.57, Severance Benefits.

Leave without pay-layoff extends for 12 months from the layoff effective date, or until the employee is:

- recalled,
- placed in a full-time salaried position that is in a Pay Band and salary equal to or higher than that of the employee’s former position,
- resigns, or
- retires,

whichever is sooner.

**Long Term Disability-
(LTD)**

A benefit received by employees in a disability status who are covered by Policy 4.57, Virginia Sickness and Disability Program (VSDP). The benefit commences upon the expiration of a 180-calendar day waiting period and provides partial income replacement.

**Long Term Disability
Working-(LTD-
Working)**

A benefit received by employees in a disability status who are covered by Policy 4.57, Virginia Sickness and Disability Program (VSDP). The benefit commences upon the expiration of a 180-calendar day waiting period, and allows employees to continue to work for their agency from short-term disability working status into LTD-working. In LTD-working the employee must work at least 20 hours per workweek in his or her own position.

Minimally Qualified

Employees who are determined by agency management to (1) possess the necessary knowledge, skills, abilities (KSAs) and other bona fide job requirements as outlined in the Employee Work Profile (or other document used by the agency to describe the nature of the position and the position's qualifications) and (2) be able to satisfactorily perform the duties of the position after a six-month period of orientation in the new position.

Placement

The assignment of an employee to a position within the agency that is in the same Role in the same Pay Band or a different Role in the same or a lower Pay Band, to avoid placing the employee on leave without pay-layoff or separated-layoff status.

Placement Option

Position offered to an employee for placement under this policy, as an alternative to being placed on leave without pay-layoff.

**Preferential
Employment Rights**

Prior to layoff. The right of an employee who is scheduled to be placed on leave without pay-layoff to obtain a vacant position (using the "Yellow Form") for which he or she is *minimally qualified* in another Executive Branch agency without competition from employees outside the hiring agency. The position must be in the same or lower Pay Band as the employee's current position.

OR

While on leave without pay-layoff. The right of an employee who is on leave without pay-layoff to obtain a vacant position (using the Preferential Hiring Card) for which he or she is *minimally qualified* in another Executive Branch agency without competition from employees outside or wage employees inside the hiring agency. The position must be in the same Role as the employee's former position.

**Preferential Hiring
Card**

"Blue Card" issued to employees on the day before their leave without pay-layoff status becomes effective. This card is used

Card

without pay-layoff status becomes effective. This card is used by employees who are on leave without pay-layoff to obtain preferential employment rights to vacant positions in other Executive Branch agencies that are in the same Role as their former positions and for which they are *minimally qualified*. The Preferential Hiring Card is valid from the date of issue for the duration of an employee's leave without pay-layoff status (see Attachment C).

Pre-Layoff Leave

Paid leave that allows an agency to continue an employee's compensation for a maximum of two weeks (up to 80 hours) prior to the effective date of layoff (during the layoff notice period). This period is intended to provide time for the employee who will be placed on leave without pay-layoff to seek employment in other state agencies or with other employers. The time may be granted in a block or intermittently, at the agency's discretion.

Recall

The placement of an employee into a position that is in the employee's pre-layoff Role, salary and agency when the employee has:

- been placed on leave without pay-layoff;
- accepted a placement option with a reduced salary; or
- demoted in lieu of layoff.

**Reemployment
Opportunity (ReOp)
Pool**

A voluntary program whereby employees on leave without pay-layoff may have their work credentials entered into a centralized data base which can be used by Executive Branch agencies in recruiting for vacancies before they advertise or list positions in RECRUIT (see Attachment D). Consideration may be given for positions that are in the same or lower Pay Band as that held by the employee when placed on leave without pay-layoff.

Relocation

Requirement of an employee to move his or her place of residence due to the location of a placement option.

Restricted Position

A position that is funded 10% or more from non-continuous or non-recurring funding sources, such as grants, donations, contracts, capital outlay projects, or higher education auxiliary enterprise revenues.

Role

A Role describes a broad group of positions in a Career Group assigned to a specific Pay Band that are assigned different levels of work at various skill or knowledge levels.

Seniority

One of the criteria used by agencies to determine which employees will be impacted by position abolishment. Seniority is calculated based on total continuous salaried state service,

computed from the last employment or re-employment date into a classified position, including approved leaves without pay and periods of Short Term Disability and Long-term Working Disability under the Virginia Sickness and Disability Program (VSDP). Seniority must be used by agencies when determining (1) who will be affected by layoff and (2) who is eligible for placement options within the agency before layoff or for recall opportunities.

Separated-Layoff

Transaction Code that designates status of employees who:

- do not qualify for the continuation of benefits under this policy or for severance benefits as described in Policy 1.57 because they have declined certain placement or recall options;
- are not eligible to receive either layoff benefits or severance benefits, e.g., any restricted employee not eligible for layoff or severance benefits.

**Standard
Occupational
Classification System
(SOC Code)**

System used by the federal government for statistical reporting purposes and for purposes of current and accurate occupational information. It replaces the Dictionary of Occupational Titles (DOT).

**Short Term Disability-
(STD)**

A benefit received by employees in a disability status who are covered by Policy 4.57, Virginia Sickness and Disability Program (VSDP). The benefit commences upon the expiration of a 7calendar- day waiting period, and provides replacement income for defined periods of time based on an employee's total months of state service.

**Substantially the Same
Work**

One criterion used by agencies to determine which employee(s) will be impacted by the Layoff Policy. The following are indicators to assist agencies in making that determination:

- Positions are in the same work unit;
- positions are in the same Role;
- positions have the same work title;
- positions are at the same reporting level in the organizational structure;
- positions have the same SOC Code; and
- positions have similar job duties, KSAs, and other job requirements, based on the position description or Employee Work Profile.

Transitional Severance Benefits

Benefits provided to eligible employees that are designed to lessen the impact of involuntary separation by providing some cash payments and continuing key benefits for a period of time. Severance benefits include:

- severance payments.
- continued state contribution toward health insurance premiums, and
- continued state contribution of life insurance premiums, OR
- enhanced retirement option. Full-time employees who are eligible to retire may choose enhanced retirement in lieu of receiving other benefits. (See Policy 1.57, Severance Benefits)

Valid Vacancy

A vacant classified position that is fully funded and has been approved by the appointing authority to be filled. These may include part-time or restricted positions depending upon agency needs and position funding.

Work Unit(s)

Designation that an agency may use to define the scope of the layoff to organizational units smaller than the entire agency. The Work Unit designation may be by geographic area(s) or business unit(s) to be impacted. If such a designation is used by the agency, the designation must be made *prior to* implementing a layoff.

SUMMARY OF LAYOFF PROCESS

Agency management should conduct the following process in implementing layoff:

- Identify position(s)/duties to be eliminated using steps provided in this policy.
- Identify employees affected by the decision to reduce or reconfigure the work force using steps provided in this policy.
- Determine if placement options exist within the agency and make offer(s) to affected employee(s). This may result in:
 - placement in the same Pay Band;
 - demotion in lieu of layoff; or
 - separated-layoff.
- If no placement option exists prior to layoff for employees identified by the layoff sequence, agencies may decide to notify other employees in the same work unit, geographic area, and Role, who are performing substantially similar job duties of the need to place an employee or employees on

LWOP-layoff. Employees may then notify management of their interest in being considered for LWOP-layoff.

- Management assesses the impact of placing specific employee(s) on LWOP-layoff and determines which employee(s) will be affected by that decision.
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AGENCY DECISIONS PRIOR TO IMPLEMENTING LAYOFF

Each agency determines the factors that will guide the layoff process according to the criteria below. Each agency is responsible to identify employees for layoff in a manner consistent with their business needs and the provisions of this policy.

Before implementing a layoff, agencies must:

- determine whether the entire agency or only certain designated work unit(s) are to be affected;
- designate business functions to be eliminated or reassigned;
- designate work unit(s) to be affected as appropriate;
- review all vacant positions to identify valid vacancies that can be used as placement options during layoff, and
- determine if they will offer the option that allows other employee(s) in the same work unit, Role, and performing substantially the same duties to request to be considered for layoff if no placement options are available for employee(s) initially identified for layoff.

Valid vacancies can be filled after the agency has determined that no employees to be affected by layoff are eligible for or interested in the positions.

IMPLEMENTING LAYOFF

Layoff Sequence

After identifying the work that is no longer needed or that must be reassigned, agencies **must** select employees for layoff within the same work unit, geographic area, and Role, who are performing substantially the same work, according to the following layoff sequence:

1. wage employee(s) performing the same work (wage employees are not covered by the provisions of this policy or Policy 1.57, Severance Benefits);
 2. the least senior through the most senior part-time restricted employee; and then
 3. the least senior through the most senior part-time classified
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employee; and then

4. the least senior through the most senior full-time restricted employee (if the position is anticipated to be funded for longer than 12 months); and then
5. the least senior through the most senior full-time classified employee.

Reduction to Part-time

To achieve the required savings, or to respond to changed workload patterns, agencies may reduce a full-time classified position to part-time status (minimum of 20 hours per week). If the employee chooses to remain in the part-time position, he or she is eligible for recall rights and continuation of health benefits for one year through this policy. If an eligible employee declines to remain, he or she may be eligible for layoff and severance benefits.

**Layoff Benefits for
Certain Restricted and
Part-Time Employees**

An employee who holds a full or part-time restricted position or a part-time classified position that is discontinued due to application of this policy is eligible for placement consideration provided by this policy only if:

1. the position held immediately prior to the position being discontinued was a full-time non-restricted classified position, and
2. there was no break in service between the full-time non-restricted classified position and the restricted or part-time classified position.

If part-time classified or restricted employees are eligible for placement options under this policy, they will be considered in order of seniority with all other employees being considered for placement.

NOTE: Restricted employees whose positions are contingent upon project grants as defined in the Catalog of Federal Domestic Assistance are not eligible to receive severance benefits unless the funding source has agreed to assume all financial responsibility in its written contract with the Commonwealth. (Also see Policy 1.57, Severance Benefits.)

**LAYOFF FOR
EMPLOYEES ON
LEAVE OF
ABSENCE****Leave with Pay,
Family and Medical
Leave or**

Employees who are on any paid leave, Family and Medical Leave (see Policy 4.20) or on Unconditional Leave Without Pay (position held, see Policy 4.45, Leave Without Pay-Conditional/

**Unconditional LWOP
(Position Held)**

Unconditional) are considered active employees and shall be treated as if they were in their positions. If their positions are to be abolished and they are otherwise qualified to receive the benefits outlined herein, they must be provided placement options and the appropriate benefits.

If their positions are not being abolished, they may not be used as placement options for other employees impacted by layoff.

**Military Leave
Without Pay**

Employees on Military Leave Without Pay generally are eligible for placement or recall rights under this policy and for severance benefits under Policy 1.57, Severance Benefits. Employees on leave without pay-military retain employment rights for five years as stated in the Uniformed Services Employment and Reemployment Rights Act (USERRA). See Policy 4.50, Military Leave, for information on reemployment rights.

Layoff benefits will be made available to eligible employees on Military Leave Without Pay upon their return if their position was abolished during their absence and no other placement option is available upon their return.

**VSDP - Short-Term
Disability (STD) and
LTD-Working
Disability**

Employees on STD and LTD-working under the VSDP (see Policy 4.57, Virginia Sickness and Disability Program) may receive notice of layoff. Eligible employees may be on leave without pay-layoff and VSDP short-term or LTD-working status concurrently.

NOTE: Eligible employees who move from STD to LTD during leave without pay-layoff retain eligibility for benefits under the Layoff and Severance Benefits policies for the duration of their LWOP-layoff status.

The effective date of layoff for these employees will be the date designated by the agency regardless of their VSDP status.

Positions occupied by employees on STD and LTD-working are not vacant and may not be used as placement options for other employees impacted by layoff.

**LTD, and Conditional
LWOP (Position Not
Held)**

Employees who are on LTD under the VSDP (see Policy 4.57, Virginia Sickness and Disability Program) or who are on Conditional Leave Without Pay (position not held, see Policy 4.45, Leave Without Pay-Conditional/Unconditional) generally are not eligible for placement or recall rights under this policy, or for severance benefits under Policy 1.57, Severance Benefits.

Positions of employees on LTD or on Conditional LWOP may be considered valid vacancies and used as placement options for

**Workers’
Compensation**

employees impacted by layoff.

Employees receiving Workers’ Compensation benefits can be notified of layoff. The layoff effective date for these employees will be the date designated by the agency regardless of their Workers’ Compensation status.

NOTE: Agencies must contact the Office of Workers’ Compensation at least two weeks prior to affecting an employee on Workers’ Compensation (WC) with Layoff in order to insure that WC benefits and layoff are coordinated accurately.

**PLACEMENT
OPPORTUNITIES
BEFORE LAYOFF****Pre-Layoff Leave**

Agencies should grant pre-layoff leave to employees who will be impacted by layoff unless agency business needs preclude approval. Pre-layoff leave granted on an intermittent basis, should be scheduled and approved with the supervisor before it is used.

**Placement Within the
Agency**

During the time between Initial Notice and Final Notice of Layoff, the agency shall attempt to identify internal placement options for its employees. After an agency has identified all employees eligible for placement, an attempt must be made to place them by seniority to any valid vacancies agency-wide in the current or a lower Pay Band. Such placement shall be in the highest position available for which the employee is *minimally qualified* at the same or lower level in the same or lower Pay Band, regardless of work hours or shift. Once such a position has been offered and declined by the employee, the agency has no obligation to consider additional placement options for the employee. Agencies should use the Compensable Factors to determine if positions are at the same or lower level.

Placement of Employees
on Leave With Pay,
Unconditional Leave
Without Pay for Illness
or Disability, and VSDP

Eligible employees identified for layoff while on

- leave with pay,
- unconditional leave without pay for illness or disability,
- STD, or
- LTD-working

must be afforded placement options provided by this policy. For employees in this status, agencies must hold positions identified as placement options for the period of time that an employee is eligible for FMLA.

Effective Date of Placement	Placement within the agency should take place on the date layoff would have become effective; however, agencies may determine that it is in the best interest of the employee and/or the agency to make placement effective prior to that date.
Notice of Placement	If a placement option is identified within the employee's agency, the agency must give the employee a final layoff notice using the L-1 Form (Attachment B) indicating that the employee is being offered placement and the employee's acceptance or declining of the placement. This notice must be given prior to the effective date of layoff.
Use of Part-Time or Restricted Positions as Placement Options	<p>Part-time positions may be offered to full-time classified employees as placement options if there are no full-time positions available for placement. Employees who accept such placement will be eligible for recall rights and the continuation of health benefits in accordance with this policy for one year following the effective date of placement. Eligible employees who decline placement to part-time positions will be placed on leave without pay-layoff and will be eligible for layoff benefits and severance benefits (if applicable) as described in Policy 1.57, Severance Benefits.</p> <p>Restricted positions that are expected to continue for longer than 12 months must be offered by agencies as placement options if there are no other classified positions available for placement. Agencies must inform employees of the effects of accepting a restricted position. Eligible employees who decline placement to restricted positions will be placed on leave without pay-layoff and will be eligible for layoff benefits and severance benefits (if applicable) as described in Policy 1.57, Severance Benefits.</p>
Minimally Qualified	Agency management must determine whether an employee is <i>minimally qualified</i> for the position being considered as a placement option. The Employee Work Profile and employee's work experience should be used as guides in making this determination.
Compensation	<p>It is the intent of this policy to maintain employees' salaries where possible; however, when that is not feasible due to budget constraints, agencies may offer lower salaries to employees who are placed in lieu of layoff.</p> <p><u>Placement within the Pay Band.</u> Normally, placement within the Pay Band, whether to the same or a different Role, does not result in a change in the employee's base salary. However, if funding constraints exist, the agency may offer a lower salary upon placement. Employees who accept placement within their same Pay Band that results in a salary reduction will retain recall rights</p>

for 12 months from placement.

Demotion in lieu of layoff. Employees who are placed in positions that are in lower Pay Bands normally will retain their salaries if the salaries are within the employee's new Pay Band. If an employee's salary is above the Pay Band's maximum, the agency may freeze the employee's current salary for a maximum of six months from the placement date, before reducing it to the maximum of the Pay Band. However, if funding constraints exist, the agency may reduce the salary to the maximum immediately or offer a lower salary upon placement. Employees that accept placement to a lower Pay Band in lieu of layoff will retain recall rights for 12 months from demotion.

Loss of Differential. If the position offered as a placement option is not assigned a differential similar to the employee's former position, the agency may remove the differential at placement, resulting in a salary reduction. Employees who accept placement to a position that results in loss of differential (salary reduction) will retain recall rights for 12 months from placement.

Performance increases. An employee who is placed within the agency will be eligible for performance increases in accordance with Policy 1.40, Performance Planning and Evaluation.

Decline Vacancy

Reduction in salary. An employee may decline a position that results in a salary reduction including loss of a differential (regardless of the location of the position) and be placed on leave without pay-layoff status, retaining layoff benefits and severance benefits (if eligible).

Relocation. An employee may decline a position that would require relocation (regardless of salary) and be placed in leave without pay-layoff status, retaining layoff benefits and severance benefits (if eligible).

No reduction in salary or relocation. An employee who declines a classified vacancy in the same or lower Pay Band that (1) would not require relocation or (2) would not result in a reduction in salary will be separated (separated-layoff), and will not be entitled to other benefits under this policy or to severance benefits.

Alternative Employee
Designation When No
Placement Options
Available

Agencies may choose to place on LWOP-Layoff employees who agree to accept layoff instead of those employees identified by the above process. Before this can occur agencies must:

1. determine that they want to use this option in implementing this policy;
2. notify other employees in the same work unit who are in the same Role performing substantially the same duties as those

of the identified employee; and

3. ensure that these decisions support agency operational needs and are in compliance with the other provisions of this policy.

Eligible employees placed on LWOP-layoff will receive layoff benefits and severance benefits if applicable.

**Placement in other
Executive Branch
Agencies**

During the time between Initial Notice and Final Notice of Layoff, the agency shall use the procedures outlined below to help employees locate positions in other agencies.

Interagency Placement
Screening Form

When employees are notified that they will be impacted by layoff, agencies must:

- issue Interagency Placement Screening Forms (“Yellow Form”), and
- ensure that employees have access to the state vacancy listing.

These employees may use the “Yellow Form” to gain preferential consideration for valid vacancies in any Executive Branch agency from the date of issuance until they are placed on leave without pay-layoff.

Use by Employees

The Interagency Placement Screening Form may be used to apply for announced positions, including those announced for agency employees only, that are in a Pay Band equal to or lower than the Pay Band of the employee’s current position and for which they are *minimally qualified*. To be considered, the “Yellow Form” must be received by the other agency prior to the application deadline.

Employees may refuse employment offers with other agencies and retain placement options within their agency, if any are available.

Once an employee has accepted a position using the “Yellow Form,” it may not be used to obtain another position.

Hiring Agency
Responsibilities

Hiring agencies have the option of hiring a *minimally qualified* applicant who presents an Interagency Placement Screening Form without conducting recruitment or interviewing other applicants unless they also are considering internal applicants for the position (see Policy 2.10, Hiring).

An agency must hire an applicant who is determined by agency management to be *minimally qualified* when presented with a “Yellow Form,” unless the agency chooses to hire through the competitive recruitment process an applicant who currently is an

agency employee (including wage employees who work for the hiring agency).

The agency must consider applicants who have submitted the “Yellow Form” prior to their layoff effective dates even if the application deadline extends beyond the applicants’ layoff dates.

If more than one *minimally qualified* applicant presents a “Yellow Form,” the position must be filled competitively from among these applicants. If the agency desires to consider internal applicants, they should be included in this competitive selection process.

NOTE: Agencies should require applicants submitting Interagency Placement Screening Forms to complete state application forms. Agencies offering placement options to employees simultaneously on leave without pay-layoff and VSDP should provide a copy of the Employee Work Profile to the employee so that their physician can determine their ability to return to full-time/full-duty in the position.

Compensation

Salaries offered to employees placed as a result of using the “Yellow Form” will be established according to the non-competitive Voluntary Transfer or non-competitive Voluntary Demotion Pay Practices, as appropriate, based on the position. (See Policy 3.05, Compensation.)

Employees accepting positions as a result of using the “Yellow Form” will be eligible for performance increases according to the provisions of Policy 1.40, Performance Planning and Evaluation.

Employees accepting placement under these provisions are not eligible to receive severance benefits.

**FINAL NOTICE OF
LEAVE WITHOUT
PAY-LAYOFF**

If no placement options are available within the employee’s agency or within other Executive Branch agencies, the agency must:

- give the employee a final layoff notice using the L-1 Form (Attachment B) and indicating that the employee will be placed on Leave Without Pay–Layoff status on the layoff effective date. This notice can be given either as part of the initial notice if the agency has already determined there are no placement options within the agency, or as a final notice after the agency has reviewed all placement options and determined there are none available; and
- give the employee the “Blue Card” with the final notice on the last day of work, or immediately prior to the last day of work.

**Duration of Leave
Without Pay-Layoff
Status**

When employees are placed on leave without pay-layoff, the agency must notify them of their rights during the layoff period, including severance benefits, if applicable, and provide them with several copies of the Preferential Hiring ("Blue") Card (Attachment C) and an application for the Re-Employment Opportunity (RE-OP) Pool (Attachment D).

For employees not entitled to severance benefits, the agency must provide information on continuance of life insurance and health insurance (COBRA).

Leave without pay-layoff status extends for one year from the layoff effective date or until the employee:

1. is recalled,
2. resigns,
3. retires, or
4. obtains employment in another classified position that is in a Pay Band that is equal to or higher than the Pay Band of the employee's former position and salary that is equal to or higher than the salary held at the time of layoff.

**PLACEMENT
OPPORTUNITIES
AFTER LAYOFF****Recall Rights to
Former Agency**

Recall is intended to restore an employee to a position in his or her own agency and to the Role and salary held at layoff.

Employees who:

- have been placed on leave without pay-layoff;
- accepted a placement option with a reduced salary, or
- have been demoted in lieu of layoff

have recall rights to positions for which they are *minimally qualified* in their former Role, salary and agency.

**Duration of Recall
Rights**

Recall rights are in effect for 12 consecutive months from the effective date of layoff, placement in a position that resulted in a reduction in salary, or demotion in lieu of layoff. However, recall rights cease if an employee:

- is employed in a position that is in the same or a higher Pay Band as the former position and the employee's salary meets or exceeds the pre-layoff salary;
 - resigns;
 - is terminated under Policy 1.60, Standards of Conduct; or
 - retires.
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Seniority	Employees are recalled to positions in order of seniority. If more than one employee has recall rights to a position, the position will be awarded to the most senior, <i>minimally qualified</i> employee.
Recall of Employees on Leave With Pay or Unconditional Leave Without Pay, for Illness or Disability and VSDP	Employees on leave of absence with pay or unconditional leave of absence without pay for illness or disability and employees on STD or LTD-working placed on LWOP-layoff must be afforded recall provided by this policy. For employees in this status, agencies must hold positions identified as recall options for the period of time that an employee is eligible for FMLA.
Recall Declined	<p><u>Same Role-no salary reduction:</u> If an employee declines recall to a position in the same Role as his or her former position that does not require relocation or a salary reduction his or her severance benefits and recall rights cease. Employees on leave without pay-layoff who decline such a recall offer will be separated-layoff.</p> <p><u>Relocation or salary reduction:</u> An employee may decline recall and retain recall rights for the original period of time and eligibility for any remaining severance if the offered position:</p> <ul style="list-style-type: none">• requires the employee to relocate, or• results in a salary lower than the salary of his or her former position. <p><u>Recall to Part-time Position:</u> An employee who was laid off from a full-time position may decline recall to a classified part-time position and retain recall rights for the original period of time and eligibility for any remaining severance benefits.</p> <p><u>Recall to Restricted Position:</u> An employee may decline recall to a position that is restricted and retain recall rights for the original period of time and eligibility for any remaining severance benefits.</p>
Recall Compensation	An employee who accepts recall normally will return to his or her pre-layoff salary. However, if offering the pre-layoff salary is not feasible due to budget constraints, agencies may offer lower salaries and employees accepting such offers will retain recall for the remainder of the period of time.
Performance Increases	An employee who is recalled is eligible for performance increases in accordance with Policy 1.40, Performance Planning and Evaluation.
Probationary Employee	If an employee is placed on Leave Without Pay – Layoff for more than 14 consecutive calendar days during his or her probationary period, and later returns to a classified position through recall, preferential hiring, or the competitive process, the probationary period is extended by the amount of time the employee was on

**Preferential
Employment/Other
Agencies****Leave Without Pay – Layoff.**

The Preferential Hiring (“Blue”) Card may be used by an employee on leave without pay-layoff to exercise preferential employment rights to a vacant classified position in another agency that is in the same Role as the employee’s former position.

To be considered for preferential hiring rights, the “Blue Card” must be submitted to agencies along with a completed state application form before the position’s closing date. Agencies must consider these applicants before any others except salaried applicants from inside the hiring agency.

NOTE: An hourly employee of the hiring agency may not be hired over a *minimally qualified* applicant who presents a “Blue Card” as described herein.

Minimally Qualified

To be offered a position, the applicant presenting the “Blue Card” must be *minimally qualified* for the vacancy. If more than one

applicant presents the Preferential Hiring Card, the position must be filled competitively from among these applicants.

**Agency
Responsibilities**

Hiring agencies have the option of hiring a *minimally qualified* applicant who presents a “Blue Card” without conducting recruitment or interviewing other applicants unless they also are considering internal applicants for the position (see Policy 2.10, Hiring).

An agency must hire an applicant who is determined by agency management to be *minimally qualified* when presented with a “Blue Card,” unless the agency chooses to hire through the competitive recruitment process an applicant who currently is a salaried agency employee.

The agency must consider applicants who have submitted applications with a “Blue Card” prior to the application deadline. If more than one *minimally qualified* applicant in the same Role presents a “Blue Card” the position must be filled competitively from among these applicants. If the agency desires to consider internal applicants, they will be included in this competitive selection process.

NOTE: Agencies offering placement options to employees simultaneously on leave without pay-layoff and VSDP should provide a copy of the Employee Work Profile to the employee for their physician to determine their ability to return to the position full-time/full-duty.

**Duration of Preferential
Employment Rights**

Preferential employment rights may extend for up to one year from the date of layoff. However, preferential rights cease before the

Employment Rights	<p>end of the layoff year when an employee:</p> <ul style="list-style-type: none">• accepts recall to his or her former agency,• accepts a position through the use of the “Blue Card,”• resigns, or• retires, <p>whichever occurs first.</p>
Preferential Employment Compensation	<p>Salaries offered to employees using their preferential employment rights will be established according to the non-competitive Voluntary Transfer or non-competitive Voluntary Demotion Pay Practice, as appropriate, based on the position. (See Policy 3.05, Compensation.)</p>
Performance Increases	<p>Employees who accept placements under these provisions will be entitled to performance increases in accordance with the provisions of Policy 1.40, Performance Planning and Evaluation.</p>
Probationary Employee	<p>An employee who was placed on Leave Without Pay-Layoff during his or her probationary period and who obtains placement to another classified position through use of the Preferential Hiring Card will resume the probationary period upon entry into the new position. For example, if the employee left the original position after 7 months and 2 weeks, he or she would complete the 4 months and 2 weeks remaining probationary time in the new job.</p>
Only One Position	<p>An employee may use the Preferential Hiring Card to apply for several positions; however, once an employee has accepted a position using the “Blue Card,” it may not be used to apply for other positions.</p> <p><i>Example:</i> Tom Jones used the “Blue Card” to apply for two positions, one at agency A and another at agency B. Mr. Jones accepted the position at agency A; therefore, he could not use the card to obtain the position at agency B.</p>
Refuse Offers	<p>Employees who refuse employment offers from other agencies do not forfeit their preferential employment rights. Neither do they forfeit recall rights, any remaining severance benefits, or re-employment (RE-OP) pool opportunities.</p>
Placement Through RE-OP Pool	<p>Participation in the Re-Op Pool is voluntary. Access to the Re-Op Pool begins when an employee is placed on LWOP-layoff and continues for the duration of the leave without pay-layoff. In order to be entered into the Re-Op Pool, employees with active Preferential Hiring Cards must submit applications (Attachment D) to DHRM.</p> <p>Agencies wishing to consider applicants from the RE-OP Pool should contact DHRM to receive the information.</p>

**Re-Op Pool
Compensation**

Employees who are employed through the Re-Op Pool will have their salaries established by the non-competitive Voluntary Transfer or non-competitive Voluntary Demotion Pay Practice, based on the new position, as outlined in Policy 3.05, Compensation.

**EFFECTS OF
LAYOFF ON LEAVE
ACCRUALS AND
SERVICE CREDIT****Annual Leave**

No annual leave is accrued while an employee is in leave without pay-layoff status.

An employee may request payment of his accrued annual leave, or be allowed to retain this balance when placed on leave without pay-layoff.

LWOP-Layoff

An employee who retains his or her annual leave balance while on leave without pay-layoff status will be paid upon:

- expiration of the period of leave without pay-layoff;
- resignation, or
- transition from STD to LTD,

whichever occurs first.

Payment of annual leave will be up to the maximum allowed in accordance with Policy 4.10, Annual Leave.

NOTE: Employees on STD or LTD-working who are placed on leave without pay-layoff may not use annual leave to supplement the VSDP benefit to receive 100% replacement income.

Separated-Layoff

An employee who is placed in separated-layoff status will be paid for his or her unused annual leave up to the maximum allowed in accordance with Policy 4.10, Annual Leave.

**“Traditional” Sick
Leave**

No “traditional” sick leave is accrued while an employee is in leave without pay-layoff status.

An employee who has five or more years of continuous state service may be:

- paid for his or her “traditional” sick leave in accordance with Policy 4.55, Sick Leave; or
- allowed to retain this balance when placed on leave without pay-layoff.

An employee with five or more years of consecutive state service who retains his or her “traditional” sick leave balance

while on leave without pay-layoff will be paid in accordance with policy 4.55, Sick Leave:

- at the expiration of the period of leave without pay-layoff,
- at resignation, or
- when placed in separated-layoff status,

whichever occurs first

An eligible full-time employee will be paid for 25% of his or her "traditional" sick leave balance up to a maximum of \$5,000 in accordance with Policy 4.55, Sick Leave.

VSDP Leave Balances

Sick and Family and Personal Leave

VSDP leave balances will lapse when an employee is placed on leave without pay-layoff. If the employee is recalled or secures placement in another agency through preferential employment rights prior to the end of the layoff year (and prior to January 10 of a year), the leave balances held at layoff will be reinstated.

If the employee is recalled or secures placement in another agency within the layoff year but after January 10, the employee will receive the appropriate VSDP sick and family/personal leave credits in accordance with Policy 4.57, Virginia Sickness and Disability Program.

NOTE: Employees on STD or LTD-working who are placed on leave without pay-layoff may not supplement with family and personal leave to receive 100% income replacement.

Disability Credits

An eligible employee's Disability Credit balance must be held while the employee is on leave without pay-layoff. At the expiration of leave without pay-layoff, or if the employee resigns or retires before the expiration of leave without pay-layoff, Disability Credits will be paid in accordance with Policy 4.57, Virginia Sickness and Disability Program. Employees also may choose to elect to convert unused disability credits to service credits to increase their VRS benefit according to the Virginia Retirement System.

Employees on STD or LTD-working who are placed on leave without pay-layoff **may** supplement with Disability Credits while in leave without pay-layoff to receive 100% income replacement.

Employees on STD and leave without pay-layoff who transition into LTD will have Disability Credits transferred to the Third Party Administrator in accordance with Policy 4.57, Virginia Sickness and Disability Program.

Compensatory and

An employee will be paid for accrued compensatory and overtime
time when placed on LWOP Layoff or separated leave.

LAYOFF

POLICY NO.: 1.30
EFFT. DATE: 9/25/00
REV. DATE: 8/10/02

Overtime Leave

leave when placed on LWOP-Layoff or separated-layoff.

Service Credit for Leave

Time spent on LWOP-Layoff, up to a maximum of 12 months will count in determining:

1. annual leave accrual rate upon an employee's return,
2. months of service for VSDP upon an employees return, and
3. eligibility for payment of 25% of Traditional Sick Leave or disability credits upon separation.

AUTHORITY

The Department of Human Resource Management issues this policy pursuant to the authority provided in Title 2.2 of the Code of Virginia.

INTERPRETATION

The Director of the Department of Human Resource Management is responsible for official interpretation of this policy, in accordance with section 2.2-1201 of the Code of Virginia. Questions regarding the application of this policy should be directed to the Department of Human Resource Management's Office of Compensation and Policy.

The Department of Human Resource Management reserves the right to revise or eliminate this policy.

RELATED POLICIES

Policy 1.40, Performance Planning

Policy 1.57, Severance Benefits

Policy 1.60, Standards of Conduct

Policy 2.10, Hiring

Policy 3.05, Compensation

Policy 4.10, Annual Leave

Policy 4.20, Family and Medical Leave

Policy 4.45, Leave Without Pay-Conditional/Unconditional

Policy 4.55, Sick Leave

Policy 4.57, Sickness and Disability Program

Policy 4.60, Workers' Compensation